

P-421/CT-95-750

ORDER GRANTING AUTHORITY

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Tom Burton
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of USWC's Application for
COCOT Authority

ISSUE DATE: November 28, 1995

DOCKET NO. P-421/CT-95-750

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PROCEDURAL HISTORY

On July 27, 1995, U S West Communications, Inc. (USWC or the Company) filed an application for authority to provide customer-owned pay telephone service outside its assigned local exchange territory.

On August 24, 1995, the Minnesota Department of Public Service (the Department) filed comments recommending approval of the Company's application.

On August 24, 1995, the Minnesota Independent Payphone Association (MIPA) filed a petition to intervene in this proceeding.

On September 6, 1995, USWC filed comments regarding MIPA's petition and the Department filed reply comments on September 7, 1995.

On November 21, 1995, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. USWC's Petition

USWC supported its request for authority to provide pay telephone service outside its service territory with the customary information provided by pay telephone service provider applicants.

B. MIPA's Petition to Intervene

MIPA is a group of independent pay phone providers. Many of its members currently provide pay telephone service in territories for which USWC seeks authority to provide the same service. In explaining its petition to intervene, MIPA stated that it wanted to develop the record on issues related to cross-subsidization and unfair competition. MIPA argued that if USWC's petition was approved, the Company would engage in cross-subsidization and unfair competition. MIPA asserted that USWC should only be allowed to provide pay telephone service through a fully separate subsidiary.

C. The Department's Comments

The Department stated that it has reviewed USWC's application and has found it in accordance with Commission requirements. The Department recommended that the Commission approve the Company's petition and grant the authority requested.

In response to MIPA's petition to intervene, the Department stated that its review of USWC's accounting procedures reveals them to be adequate to address MIPA's concern about cross-subsidization. The Department noted that USWC and MIPA members already compete with each other in USWC's assigned territories.

D. Commission Analysis and Action

1. MIPA's Petition to Intervene

The Commission observes that while MIPA may in fact have grounds to intervene pursuant to Minn. Rules, Part 7829.0800, the Commission finds that (due to the Commission's resolution of the one issue that MIPA sought to raise on intervention) the issue of MIPA's intervention status is moot. Accordingly, MIPA's request to intervene will not be granted.

2. MIPA's Objection

The Commission shares MIPA's concern that USWC not be allowed to unfairly compete in the provision of pay telephone service (or any service for that matter) by using its captive customers to subsidize the Company's competitive services. However, the Commission is not persuaded that the current safeguards are inadequate to deter or detect any such cross-subsidization. First, USWC has stated directly that its revenues and expenses related to the provision of pay phone service outside its assigned service area will be treated as deregulated activities and held separate from rate base. Second, the Commission has reviewed the relevant procedural and accounting measures currently in place and finds them adequate to protect consumers and competitors without giving up any operating efficiency gained by a telephone service provider.

In these circumstances, the Commission finds that MIPA's proposed solution (that USWC should provide pay telephone service outside its service territories only through a separate

subsidiary) is unwarranted and unnecessary.

The Commission notes that USWC has been providing pay telephone service on a competitive basis with MIPA members inside the Company's service territory for many years. The absence of complaints from MIPA members about this experience suggests that the current safeguards are adequate and that the Company is providing that service there on a fair basis, i.e., with no cross-subsidization. Hopefully, the competitors' experience in the new territories will be comparable. If not, MIPA may file a complaint pursuant to Minn. Stat. § 237.081, subd. 1 (a) (1994).

ORDER

1. USWC's application for authority to provide pay telephone service outside the Company's service area is granted.
2. MIPA's request for intervention to further explore issues related to USWC's provision of service through a separate subsidiary is denied.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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